IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION NO : 12191 of 2004**

Between:

1. Namburi Venkateswara Rao, S/o Namburi Samba Siva Rao,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District
2 S.K.Subhan, S/o Meera Saheb,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District
3 Seelam Nageswara Rao, S/o Seelam Arjuna Rao,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District
4 Kondapalli Krishnam Raju, S/o K.Veera Swamy,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District
5 Pastam Sreenu, S/o P.Ramaiah,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District
6 Kinnera Ramulu, S/o K.Samba Murthy,
   R/o Siddardha Nagar, Gollapudi, Vijayawada Rural Mandal,
   Krishna District

**..... PETITIONERS**

AND

1 Gollapudi Grampanchayat, rep.by its Executive Officer, Gollapudi,
   Vijayawada Rural Mandal, Krishna District
2 Vijayawada-Guntur-Tenali Urban Development Authority rep.by its
   Vice Chairman, Vijayawada
3 Y.Prabhakar Rao, S/o Subrahmanyam,
   R/o Near Milestone, Gollapudi, Vijayawada Rural Mandal
4 Y.Venkata Ramamma, W/o Y.Prabhakar Rao,
   R/o Near Milestone, Gollapudi, Vijayawada Rural Mandal

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the action of the 1st and 2nd

respondent in contemplating to dispossess the petitioners from their respective dwelling units in R.S.No.528/1, Siddhardha Nagar, Gollapudi Village, Vijayawada Rural mandal, Krishna District, with reference to the alleged lay out sanctioned by 2nd respondent is illegal, unreasonable, high handed, and violative of Article 14,21 and 300A of the Constitution of India.

**Counsel for the Petitioners: MR.VENKATESWARLU POSANI**

**Counsel for the Respondent No.1: MR.DANTU.SRINIVAS**

**Counsel for the Respondent No.2:MR. P.M.GOPAL RAO**

**Counsel for the Respondent Nos.3 & 4: MR.V.S.R. ANJANEYULU**

**The Court made the following :**

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12191 OF 2004

ORDER:

Though interlocutory applications being W.V.M.P.No.2565 of 2004 and W.P.M.P.No.15483 of 2004 are listed before this Court, the Writ Petition itself is being disposed of as the question raised is in a narrow compass.

The petitioners, who are six in number, allege that they have been in occupation of land in R.S.No.528/1 of Gollapudi Village and raised huts in the land. Respondent Nos.3 and 4 purchased house plots admeasuring 500 Sq.yards each and allegedly constructed a double-storied building abutting road of eighteen feet width. The petitioners allege that respondents 3 and 4 made several attempts to evict the petitioners and other occupants from the land. They filed a writ petition being W.P.No.15480 of 2003 seeking a direction to Gollapudi Gram Panchayat and Station House Officer (Law and Order) I Town Police Station, Vijayawada to remove the illegal and unauthorized constructions made by the petitioners herein on the public road in R.S.No.528/1. This Court disposed of the said Writ Petition on 23.2.2004 directing first respondent to obtain sanctioned layout from second respondent and initiate necessary action against petitioners herein if they are found to be encroachers of road margin. The petitioners allege that in spite of specific direction by this Court, even before verifying the layout, first respondent is contemplating to evict the petitioners high-handedly. Therefore, they seek a Mandamus declaring the action of respondents 1 and 2 in contemplating to dispossess the petitioners from their respective dwelling units as illegal and arbitrary.

This Court while admitting the Writ Petition ordered *status quo* as on 15.7.2004. Respondent Nos.3 and 4 have now come forward with an application being W.V.M.P.No.2565 of 2004 praying this Court to vacate the interim orders of this Court dt.15.7.2004. They contend that writ petitioners have made unauthorized constructions on the road blocking free passage of the vehicles and therefore respondent Nos.1 and 2 initiated action as ordered by this Court in the earlier Writ Petition.

The Gram Panchayat has not filed any counter affidavit. But, Sri D.Srinivas learned counsel for the Gram Panchayat, on instructions, submits that the Writ Petition is filed on mere apprehension, and when the Gram Panchayat initiated survey, present Writ Petition is filed.

A perusal of the order passed by this Court in W.P.No.15480 of 2003, dt.23.2.2004 would show that Mandamus was issued to first respondent to take necessary action against petitioners if they occupied road margin. If the action is initiated by the Gram Panchayat after obtaining necessary particulars from second respondent, petitioners cannot be said to have any cause of action. Petitioners have filed the Writ Petition on mere apprehension. If the petitioners are in possession of road margins, it is always open to Gram Panchayat to take action against them in accordance with Sections 96 and 98 of the A.P. Panchayat Raj Act, 1994. When the action is initiated in accordance with law, it cannot be said to be illegal.

The Writ Petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

21.9.2004
bnr

To

1 The Executive Officer, Gollapudi Grampanchayat, Gollapudi, Vijayawada Rural Mandal, Krishna District
2 The Vice-Chairman, Vijayawada-Guntur-Tenali Urban Development Authority Vijayawada
3 2 CD copies.